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OFFICE OF THE SECRETARY

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

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DPM LETTER NO. 711-1

DATE: NOV 10 1981

SUBJECT: Recording the Use of Official Time by Union and Other Employee  
Representatives for Representational Functions

The attached advance copy of Federal Personnel Manual (FPM) Letter 711-161, Recording the Use of Official Time by Union and Other Employee Representatives for Representational Functions, dated July 31, 1981 (Attachment 1), revises the requirements for all Federal agencies to follow in establishing a system for recording and maintaining records of official time and costs granted to employees for representational functions. This Departmental Personnel Manual Letter supersedes Department of Transportation Order 3720.1, Policies and Procedures for Recording Official Time for Representational Functions, dated May 9, 1978.

The amount of official time granted to employees for representational purposes must be arrived at through a balancing of three factors: (1) the impact of the time away from the job on employee performance and efficiency; (2) the impact of time away from the job on the effective conduct of the Government's business; and (3) the right of employees to be represented in matters relating to their employment. While no fixed or Government-wide allowance is established, Departmental elements must ensure that the official time authorized employees for representational purposes does not exceed that which is necessary for the appropriate performance of those functions. Representational functions may not be permitted to unduly interfere with the accomplishment of the employee-representative's official job responsibilities. All official time granted to employees to perform representational functions must be recorded and such records maintained for a minimum period of three years. These provisions apply only to employees serving as representatives and not to the employees being represented.

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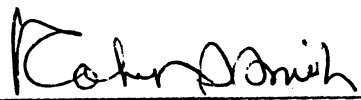
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Each Administration, including the Office of the Secretary, must develop and implement a system(s) for granting and recording the use of official time for representational purposes. Because of the varying organization and work force size of the different elements of the Department, the management officials authorized to grant official time for representational purposes and the specific organizational locations where records of use of official time are to be maintained are for determination by each Administration. However, procedures established should ensure that records of official time used for representational purposes are provided to a central management point, usually the servicing personnel office, whenever a compilation of official time usage is required by the Department or other government agency and at least annually for a review to ensure that the amount of official time used is in accordance with the above stated criteria.

No recurring reporting procedure outside of the Administration is established. However, each Departmental element should be aware that they are held accountable for the use of official time and funds. The Office of Personnel Management, the General Accounting Office, and other appropriate government agencies will be monitoring the implementation and administration of this program and records kept as required herein are subject to review by those agencies.

Any system developed must record, as a minimum, official time usage in the five categories listed in FPM Letter 711-161. Attachment 2 is an official time usage record form which may be adopted for that purpose. Whether the attached form is adopted or a different recording system is developed, all obligations to negotiate or consult, as appropriate, with recognized labor organizations must be met prior to implementing or modifying a system for granting and recording the use of official time for representational purposes.

  
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Director, Office of Personnel  
and Training

2 Attachments

## FPM Letter 711-161

(ADVANCE EDITION LIMITED 7/21/81)

**RETAIN UNTIL SUPERSEDED**

## Recording the Use of Official Time by Union and Other Employee Representatives for Representational Functions

Washington, D. C. 20415  
July 31, 1981

**Heads of Departments and Independent Establishments:**

This Letter establishes the requirement for all Federal agencies to follow in carrying out their responsibilities for recording certain time and costs involved in employee representational functions, as defined herein.

BACKGROUND

FPM Letter 711-120, dated October 14, 1976, superseded by Instruction #15 to FPM Supplement 711-1, Book II, Subchapter S5, provided agencies with guidance in carrying out their responsibilities for authorizing employee use of official time for representational functions. It also required agencies to initiate methods to record or account for the use of such official time.

The purpose of this FPM Letter is to: (1) bring these requirements into conformity with Title VII of the Civil Service Reform Act (5 U.S.C. 71); (2) provide for recording associated travel and per diem costs; and (3) reemphasize the requirement for appropriate recordkeeping systems within agencies. Agencies and activities should use the recorded data to assess the impact on agency operations of official time, including any associated travel and per diem costs paid by the agency, granted for representational functions, and also to determine any changes it should seek in negotiated agreements and/or agency practices.

1. Definition a. Representational functions. For the purpose of this Letter "representational function" means those authorized activities undertaken by employees on behalf of other employees pursuant to such employee's right to representation under statute, regulation, executive order, or the terms of a collective bargaining agreement. It includes activities undertaken by specific individual designation (such as the designation of a representative in a grievance action or an EDO complaint) as well as those activities authorized by a general, collective designation (such as the designation of a labor organization recognized as exclusive representative under Chapter 71 of Title 5, USC).

b. Official time. "Official time" means all time granted an employee by the agency to perform representational functions, as defined above, when the employee would otherwise be in a duty status without charge to leave or loss of pay, and shall be considered hours of work. This includes time spent by an employee performing such functions

**Inquiries:** Office of Labor-Management Relations, (202) 632-9722

**Code:** 711, Labor-Management Relations

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during regular working hours (including regularly scheduled overtime hours), or during a period of irregular, unscheduled overtime work, provided an event arises incident to representational functions that must be dealt with during the irregular, unscheduled overtime period.

Official time granted to union representatives under section 7131 of 5 U.S.C. Chapter 71 is authorized as follows:

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by an employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purposes during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

"shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest."

Certain executive orders and Government-wide regulations require the use of official time for representational functions: for example, in connection with certain health and safety matters, agency administrative grievance procedures, prevailing wage rate appeals, and EEO complaints. In addition, agency regulations and practice, and collective bargaining agreements may provide official time for other representational functions.

2. Agency Implementation. a. Heads of agencies or their designees are responsible for issuing policies and regulations consistent with statute, existing collective bargaining agreements and this Letter for instituting appropriate recordkeeping mechanisms. Records should be kept at appropriate level(s) within the agency.

The deadline for activating the recordkeeping system is January 1, 1982. Agencies are responsible for meeting their obligation to negotiate or consult, as appropriate, with recognized labor organizations. The requirements contained in this FPM Letter shall not be interpreted to amend or render null and void conflicting provisions of any applicable collective bargaining agreement in effect on the date of this Letter.

b. For the convenience of those agencies electing to develop a system of records of official time used by individuals and retrieved by the individual's name or unique identifier (e.g., Social Security Number), and where the records are maintained by the employee's supervisor/manager, or designated personnel or administrative office, the Office is including Privacy Act coverage for these systems in its Government-wide, General Personnel Records (OPM/GOVT-1), system of records (published in the Federal Register on November 25, 1980). Of course, an agency may establish its system so that it is not a system of records within the meaning of the Privacy Act (i.e., records are not retrieved by individual employee identifier) or is such a system but is maintained in an agency budget or payroll office. In the latter case, agencies are reminded to review their internal Privacy Act notice for their payroll system of records to determine proper coverage for records on use of official time.

c. It is important to note that these recordkeeping requirements should not be read as a source of rights to official time or travel or per diem. The propriety of granting official time, and payment of travel and per diem costs, is based solely on statute, rule, regulation, and negotiated agreement.

d. There is no uniform requirement concerning the degree and specificity of records kept, except that as a minimum, the information shown in the following categories will be recorded:

Category I.  
Negotiations

A. Basic, Renegotiation or Reopener Negotiations

5 U.S.C. 7131(a) provides that official time is to be granted to employees representing an exclusive representative for negotiation of a collective bargaining agreement, when they would otherwise be in a duty status, with no limitation on time, except that the number of employees authorized such official time shall not exceed the number of designated management representatives. Official time spent in negotiation or renegotiation of a collective bargaining agreement, or pursuant to a contract reopener clause, meets the definition of Category IA. This includes time spent with FMCS and FSIP in connection with these negotiations.

B. Midterm Negotiations

In a major policy decision 2 FLRA No. 31, the FLRA ruled that 5 U.S.C. 7131(a) applies to all negotiations "regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement". For the purpose of this letter, mid-term bargaining refers to negotiations, other than that covered in IA.

Category II.  
On-Going Labor-Management Relationship

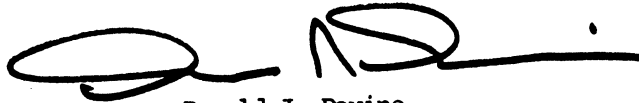
Official time granted for representational functions in connection with all labor-management committees (general and specific), consultation, walk-around time for OSHA inspections, FLRA proceedings, labor relations training for union representatives, and formal and Weingarten-type meetings under 5 U.S.C. 7114(a)(2)(A) and (B).

Category III.  
Grievances and Appeals

Official time granted for employee representation functions in connection with grievances, arbitrations, adverse actions, EEO complaints, and other complaints and appellate processes.

Category IV.  
Travel and Per Diem

All travel and per diem costs associated with employee representational functions reported above.

A handwritten signature in black ink, appearing to read 'D. Devine', with a long horizontal line extending to the right.

Donald J. Devine  
Director

EMPLOYEE REPRESENTATION RECORD<sup>1</sup>

Name of Employee: \_\_\_\_\_

Hourly Rate: \_\_\_\_\_

Location of Employee: \_\_\_\_\_

DOT Element/Location: \_\_\_\_\_

Name/Title of Supervisor: \_\_\_\_\_

Record for Calendar Year: \_\_\_\_\_

DATE OFFICIAL TIME USED	AMOUNT OF TIME (HOURS) OR ACTUAL TDY COSTS	CATEGORY OF OFFICIAL TIME	NATURE OF REPRESENTATIONAL DUTIES PERFORMED (e.g. Participate in monthly safety meeting)

1. Supervisors should maintain this record on a continuing basis for each employee granted official time for representational duties. This record should be retained for a minimum period of three years. The employee identified above is entitled to review this record.

2. Categories of official time will be recorded as:

- IA: Basic, Renegotiation or Reopener Negotiations
- IB: Midterm Negotiations
- II: On-Going Labor-Management Relationship
- III: Grievances and Appeals
- IV: Travel and Per Diem